

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

State of Montana v. Abbott Labs., Inc., et al.,
D. Mont. Cause No. CV-02-09-H-DWM

**PLAINTIFF STATE OF MONTANA'S MOTION TO FILE SECOND
AMENDED COMPLAINT UNDER SEAL**

Pursuant to Paragraph 15 of the Protective Order entered by this Court on December 13, 2002 (the "Protective Order") as well as this Court's Order of July 28, 2003 concerning Defendant AstraZeneca's Motion for Leave to File a Redacted Version of the Amended Master Consolidated Class Action Complaint, Plaintiff the State of Montana respectfully moves this Court for leave to file Plaintiff Montana's Second Amended Complaint (the "Montana Second Amended Complaint") under seal, pending the Court's decision on a further motion by Defendants to show good cause why such complaint should be redacted or sealed.

The Montana Second Amended Complaint includes information that has been identified by the Defendants to this action as "confidential" and "highly confidential" pursuant to the terms of the Protective Order. Paragraph 15 of the Protective Order

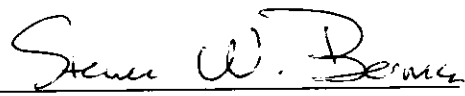

mandates that any document or pleading containing such information be filed under seal. Plaintiff hereby complies with the terms of the Protective Order. At this time, Plaintiff takes no position as to whether the information so designated by Defendants is in fact "confidential" or "highly confidential" and explicitly reserves its right to challenge such designations in accordance with the terms of the Protective Order.

In the interest of preserving the confidentiality of the designated information while Defendants move to show good cause why the information should be redacted or sealed, Plaintiff respectfully requests leave to file the Montana Second Amended Complaint under seal.

In accordance with Paragraph 29 of the Protective Order, Plaintiff has also provided herewith a redacted version of the Montana Second Amended Complaint for use as a public version pending the Court's ruling on these matters. The redacted version of the Montana Second Amended Complaint is attached hereto as Exhibit A.

DATED: August 1, 2003.

Respectfully submitted,

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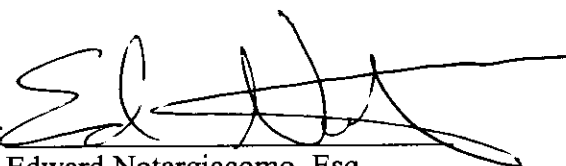
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CERTIFICATE OF SERVICE

I hereby certify that I, Edward Notargiacomo, an attorney, caused true and correct copies of the foregoing State of Montana's Second Amended Complaint and Plaintiff State of Montana's Motion to File Second Amended Complaint Under Seal, to be served on all counsel of record as reflected on the attached Service List, by hand or first class mail, this 1st day of August, 2003.

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